NOMINATION

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

DONALD L. DOTSON, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

DECEMBER 7, 1982

Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE

14-057 O WASHINGTON : 1983

S541-14

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NOMINATION

TUESDAY, DECEMBER 7, 1982

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:30 a.m., in room 4232, Dirksen Senate Office Building, Senator Don Nickles (acting chairman of the committee) presiding.

Present: Senators Nickles and Humphrey.

OPENING STATEMENT OF SENATOR NICHLES

Senator NICKLES. We will begin. Maybe the fact that we have it to ourselves will make it go very quickly, which might be to your advantage and to our advantage.

Mr. Dotson and others, I welcome you to the hearing this morning. I am pleased to be chairing this hearing to consider the nomination of Donald Dotson to be a member of the National Labor Relations Board. I give Mr. Dotson my strong support for this nomination.

Mr. Dotson currently serves in the Reagan administration as Assistant Secretary for Labor-Management Relations at the Department of Labor. In that role, Mr. Dotson has advised Secretary Donovan on labor-management policies and activities. He has also served as Administrator of the Department's Labor-Management Services Administration, which primarily administers the Employee Retirement Income Security Act of 1974, the Labor-Management Reporting and Disclosure Act of 1959, and various statutes concerning veterans' reemployment rights.

The professionalism, competence, and high level of integrity demonstrated by Mr. Dotson during his tenure at the Department of Labor can serve as a model for others who accept the serious obligation of service in the Federal Government. In that regard, I would like to enter into the record a letter from Secretary Donovan to Senator Hatch which reflects the Secretary's deep respect and high regard for Mr. Dotson.

[The letter referred to follows:]

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

Senator Orrin G. Hatch
United States Senate
Washington, D.C. 20515

Dear Senator Hatch:

As you know, Assistant Secretary of Labor Donald L. Dotson has been nominated by President Reagan for Chairman of the National Labor Relations Board and is scheduled to appear before the Senate Labor Committee for confirmation hearings. Shortly after the announcement of his nomination an allegation was made that Mr. Dotson's career has been "dedicated to the subjugation of workers in their relationship with employers". It is, therefore, essential that I advise you of Donald Dotson's record and accomplishments while serving as Assistant Secretary of Labor for Labor-Management Relations. It is a record that demonstrates an unexcelled commitment to the advancement of the interests of the working men and women of this country.

During his tenure as Assistant Secretary, I can think of no better example of this commitment than his personal efforts in developing a DOL labor-management outreach program designed to improve labor relations in this country, at the plant level.

A basic objective of this program is to improve the competitive position of U.S. industry. By substituting cooperation in place of antagonism on the shop floor, one intended benefit is to promote efficiency and productivity. In the area of international trade the companies and workers who compete best are the most secure and have the least fear of displacement. Donald Dotson has a clear grasp of these economic truths and realities. His caring for the well being of U.S. workers cannot be better demonstrated than in the program he has personally promoted to insure their economic security. His vision is to protect the jobs of our workers and he has worked conscientiously towards achieving this end.

As further testimony to his commitment to the goals of labor-management cooperation and quality of work life, Don also gave his full endorsement to the creation within his own agency of an employee participation program for rank-and-file staff of the Labor Department. Operating with the endorsement and cooperation of the appropriate unions involved, this program is deliberately and systematically uncovering and developing opportunities for employees to realize their capabilities more fully and share more fully in decisions as to how work is accomplished and the conditions under which it is performed. In this regard Donald Dotson has begun to cast the Department as a model employer worthy of emulation by other employers in both the public and private sectors.

Of fundamental importance in the job of promoting the interests of working men and women, has been Donald Dotson's role in fairly and vigorously enforcing both the Labor Management Reporting and Disclosure Act (LMRDA) and the Employee Retirement Income Security Act (ERISA). As you know, these laws were designed to protect individual worker rights and insure economic security among U.S. workers. In both public forums and private conversations I have repeatedly heard union leaders express their sincere support for the effective enforcement of these laws. In their view, any public perception of union wrong doing in the area of worker rights or pension security can only be a disservice to the labor movement in this country.

During the last two years under Donald Dotson's direction, considerable progress has been made in the protection of union members' rights by more effective enforcement of the LMRDA and the applicable provisions of the Civil Service Reform Act of 1978 (CSRA). The increased activity occurred primarily in the area of audit and embezzlement investigations for the purpose of identifying and prosecuting individuals who misused union funds for their own personal benefit rather than the members. As a result of the creation and implementation of new on-site audit techniques, improved targeting, and the emphasis placed by Mr. Dotson on this activity, a comparison of the combined totals for FY 1981 and 1982 as opposed to FY 1980 and 1979, reflect increases over the last two years of more than 500 percent in the number of unions audited; more than a 50 percent increase in the number of embezzlement investigations completed; and more than a 100 percent increase in the amount of funds allegedly embezzled in which prosecution resulted. In addition, this past year

on-site audits of national and international unions was reinitiated after a hiatus of nearly six years. Again, one of the primary purposes of this program is to insure the protection of the rights of union members.

Although renewed emphasis has been placed by Donald Dotson on preventing the misuse of union funds, he has also continued during his service as Assistant Secretary, the aggressive enforcement of the officer election provisions of the LMRDA and the CSRA in order to assure the right of every union member to choose their leaders in accordance with the standards established by those Acts. This past year in addition to more than two hundred other election investigations and approximately sixty supervised elections, elections of two major international labor organizations were also supervised pursuant to voluntary compliance agreements. In one of those situations, Mr. Dotson personally intervened to insure that unnecessary litigation was avoided, thereby sparing the international union and its members needless legal costs as well as considerable unfavorable publicity which inevitably would have resulted from legal action.

In administering ERISA, Donald Dotson has redirected strategy towards enforcing existing laws with an emphasis on criminal as well as civil violations. To improve operational efficiency, a pilot program was launched in San Francisco to decentralize litigation to the field and eliminate several levels of case reviews. Decentralization of investigation procedures has already taken place with greater responsibility given to area offices for settling cases and reducing unnecessary layers of review. Results to date include restoration of $66 million in pension plan assets over the last two years. Ultimately, individual plan participants and contributors, both those working and those retired, are the chief beneficiaries of this effort.

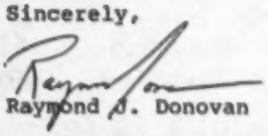
Finally, in carrying out his responsibilities for administering the Veterans' Reeemployment Rights program, Donald Dotson has made substantial improvements in servicing our nation's veterans. Veterans are now being assisted more quickly and sucessfully than ever before. These improvements are as a result of new procedures which concentrate available staff time on meritorious and prioritized veterans complaints, class action cases, or cases involving nationwide employers.

As this letter shows, I support Mr. Dotson's nomination. His record of service here at the Department displays, to any objective observer, qualities and experience that make him uniquely correct as the President's choice for the NLRB Chairman.

It should be noted that Mr. Dotson's nomination to be Assistant Secretary was before the Senate Labor Committee in 1981. That nomination was confirmed, without hearings or a vote being taken. This was both unusual and significant given the Committee's highly regarded reputation for scrutinizing nominees before it. Clearly, no evidence could be found at that time by the Committee, organized labor, or the public to detract from Donald Dotson's suitability for high public office, and nothing detracts from it now.

Please consider this my personal endorsement to Don Dotson's nomination. If I can be of any assistance to the work of the Committee during your hearings, please let me know.

Sincerely,



Raymond J. Donovan

Senator NICKLES. Besides his fine record as Assistant Secretary of Labor—which I must say has been quite an asset to the Labor Subcommittee of which I am chairman and also the full committee—Mr. Dotson's previous employment history uniquely qualifies him to serve as NLRB Chairman. Upon graduation from law school, Mr. Dotson served for 5 years as staff attorney with the National Labor Relations Board. Since then, he has served as labor counsel to the Westinghouse Corp., Western Electric Co., and chief labor counsel to Wheeling-Pittsburgh Steel Corp. In these positions, Mr. Dotson was responsible for handling a wide variety of labor relations issues that encompassed all possible levels of complexity.

It is important to note that Mr. Dotson presently serves as Assistant Secretary of Labor. He was nominated for that position early in President Reagan's term and was confirmed by the Senate last year. This committee was so impressed with Mr. Dotson's qualifications then, that the committee favorably reported his nomination to be Assistant Secretary without holding either a confirmation hearing or a formally recorded executive session. As a tribute to Mr. Dotson's performance in his capacity as Assistant Secretary, and because of his unique qualifications, we consider Mr. Dotson again today as President Reagan's nominee to be Chairman of the National Labor Relations Board.

I strongly recommend that this committee again move Mr. Dotson's nomination with dispatch so that the Senate can quickly and swiftly confirm him to his new post, hopefully in this lameduck session.

Before hearing from Mr. Dotson, at this point in the record and without objection we will insert a statement from Senator Hatch, the chairman of the Committee on Labor and Human Resources, who was unable to be present today.

PREPARED STATEMENT OF SENATOR HATCH

The CHAIRMAN. I am pleased that we are able to convene this hearing on the President's nomination of Mr. Donald L. Dotson of Pennsylvania to be a member of the National Labor Relations Board. The Board was established in 1935 with the passage of the National Labor Relations Act, commonly referred to as the Wagner Act. The act was an attempt to balance individual rights and economic freedoms with the controls that Congress felt were necessary to reduce the rampant labor conflicts that existed then—conflicts which were hindering the economic growth of the United States at a time when growth was absolutely essential. The Taft-Hartley Act followed in 1947, in an effort to remedy some of the deficiencies that had been found in the balancing mechanism.

Congress intended the NLRB to be "one of those agencies presumably equipped or informed by experiences to deal with a specialized field of knowledge, whose findings within that field carry the authority of an expertness which courts do not possess and therefore must respect."

The Board therefore presents something other than, and different from, a body whose function is to interpret the law. Rather, the Board operates as a buffer between labor and management, utilizing its expertise in the field of labor-management relations to facilitate accord between the parties.

A firm grasp of the law is imperative, but the power to state the law and interpret the law is reserved to Congress and the courts, respectively, by our Constitution.

The job of the NLRB is to delineate the practical requisites of the law, to enable the parties—labor and management—to negotiate and satisfy their own needs, while at the same time respecting and futhering the needs of our society as a whole.

The Board is a much needed relief valve, installed in the Federal machinery to help parties resolve disputes, avoid protracted disputes that do damage to the fabric of our society and economy, and to avoid industrial violence.

Mr. Dotson is without question well qualified to be a member of the NLRB. He is Assistant Secretary for Labor Management Relations at the Department of Labor, having been confirmed by the Senate on July 8, 1981. Previous to this Government service, he served as an attorney for 5 years at the NLRB, following which he served as labor counsel in the private sector for several corporations. Mr. Dotson thus brings invaluable first hand experience to his nominated position. I am sure that the confidence which the President has placed in Mr. Dotson is well placed and the Nation will be well served by his tenure on the NLRB.

Senator NICKLES. Mr. Dotson, I welcome you again before this committee. You have been before our subcommittee on a couple of occasions, so I appreciate the efforts that you have shown us in your cooperation and professionalism in the past, and I look forward to your speedy confirmation by the Senate.

STATEMENT OF DONALD L. DOTSON, NOMINATED TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. DOTSON. Thank you, Senator Nickles.

When I went through this rite of passage last year, I did not expect to be back before the committee in this role again. Because this is the committee that has oversight over the responsibilities I have had in the administration, I have decided not to make an opening statement. I am here to answer whatever questions the committee may have.

If your questions should go beyond the detail of my recollection, I have with me on my left my deputy, Ronald St. Cyr, and on my extreme right my executive assistant, Mr. Hugh Riley, and to my immediate right, Mr. Richard Hunsucker, who is director of our labor-management standards enforcement program.

Senator NICKLES. If I might, did you have any statement that you wanted entered into the record?

[The biographical sketch of Mr. Dotson follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: DOTSON (LAST) Donald (FIRST) L. (OTHER)

Position to which nominated: Member - National Labor Relations Board Date of nomination:

Date of birth: 8 (DAY) OCT (MONTH) 1938 (YEAR) Place of birth: Rutherford County, N.C.

Marital status: Single Full name of spouse: —

Name and ages of children: Leslie 21
Ingrid 18

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	University of North Carolina Chapel Hill, N.C.	1957-1960	B.A.	1960
	Wake Forest Univ.	1965-1968	J.D.	1968

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
American Bar Assn.		
Sections: Labor Law, Administrative Law, Corporation, Business & Banking Law		1968 - present
Pennsylvania Bar		
North Carolina Bar		
Bar of the Supreme Court of the United States		

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

U.S. Navy - 1960 - 1965 - Lieutenant Commander

National Labor Relations Board - 1968 - 1973 - Attorney

Pittsburgh, Pa. - Westinghouse Electric Corporation and subsidiaries - 1973 - 1975 - Labor Counsel

New York, N.Y. - Western Electric Company - 1975 - 1976 - Labor Attorney

Pittsburgh, Pa. - Wheeling - Pittsburgh Steel Corporation 1976 - 1981 - Chief Labor Counsel

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

see above - NLRB

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Republican Party, Allegheny County Pa.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

yes

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

no

3. Has a commitment been made to you for employment after you leave Federal service?

no

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

none

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

none

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

none

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

none

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

n/a

Senator NICKLES. Well, I will ask you a couple of brief questions and we will keep the record open in case other Senators might wish to ask you questions.

Mr. Dotson, would you give the committee a brief explanation of your past background and expertise in the labor-management field?

Mr. DOTSON. After graduating from college, I like many people had not made up my mind exactly what I wanted to do, and also having an inclination toward the obligation to serve in the military, I took the opportunity to spend 5 years in the Navy, to serve in that capacity and also try to figure out what I wanted to do with the rest of my life.

During that time I became interested in the general area of labor relations, more along the lines of feeling that it was an area that wasn't as well understood as it needed to be, perhaps by the academic community and perhaps by the private sector. My interest was primarily academic, and in many ways still is. I have had a long interest in what is generally called labor economics.

At the end of those 5 years in the Navy, I still wasn't too specific about what I wanted to do, and in a way decided to postpone that decision a little further by going to law school. I was able in law school to pursue some of that interest by taking the usual course that was offered in labor law and administrative law. The main thing I learned in those courses was that you don't learn much about labor law in law school. I remember one professor who used to say again and again, "Section 8(a) is the heart of the act," and frankly I really didn't have too much of an idea of what he was talking about until I got out and started working with Section 8(a).

Feeling that law school had not provided enough information about what I was interested in, I decided to go to work for the National Labor Relations Board. My ambition at that time was either to stay with the NLRB or possibly to go out and teach at some point.

I worked in a field office of the Board. I felt very fortunate to work in a region that covered a large geographical area and also covered an area where there are highly unionized industries as well as many nonunion industries. The significance of that is that we had a wide variety of cases under the act.

I did the usual things that field attorneys for the Board do. Typically you start out investigating cases. I investigated many unfair labor practice charges and held representation case elections. The next step usually is to try unfair labor practice cases, in which capacity of course you are representing the public. You also are involved in the drafting of proposed decisions for the Regional Director involving representation case questions and holding hearings. If you satisfy your supervisors, then you may be trusted with training other people to do those things, and I was involved in some of that.

Senator NICKLES. What years was this in your service?

Mr. DOTSON. That was from 1968 to 1973. In 1973 I spontaneously received an offer of employment from the Westinghouse Electric Corp. at their headquarters in Pittsburgh. I was not planning any career change at that time but I was frankly flattered to receive an inquiry from a corporation of the size and the visibility of Westinghouse. I had not had any dealings with Westinghouse during my

time at the Board, but I did know something of the company by reputation, so I felt inclined to at least talk with them about that proposition.

At that time, the approach Westinghouse took to their labor concerns, legal concerns, was to have as much of their legal work handled in-house as possible. As you may know, some corporations tend to farm out all of their work, some do more or less, and some try to do as much of their own as they can. There has been a trend in that direction, I understand. I think Westinghouse was probably one of the first, at least in the labor area, to adopt that practice.

Being the junior person in the labor law section of the law department, I often felt that I got to do the things other people didn't want to do. Labor law has been a burgeoning field, to say the least, in the past 10 or 15 years. I have often yearned for the simpler days when there wasn't much to it but the National Labor Relations Act and the Wage-Hour law and you only had about this many books on your shelf. Now we have Occupational Safety and Health, all kinds of discrimination cases, and so I immediately began to do the full range of labor cases in the Westinghouse law department.

At that time title 7 was just getting underway and we were seeing the States establish their civil rights and human relations commissions. Westinghouse is a nationwide company with many subsidiaries, so I was immediately plunged into the full range of labor practice. I still occasionally would have an opportunity to counsel on NLRB matters and was involved in a few NLRB cases during that time at Westinghouse. I also had a major project trying to help the corporation implement the wage-price controls that were imposed at that time, which was no small affair when you consider how those rules come down in the broadcasting industry and some of the other areas which may not have been in the contemplation of the people who framed that policy.

In 1975 I again received an offer, from the Western Electric Corp. It was, I think, precipitated by the fact that the Western Electric Co. was moving their administrative headquarters, and they were not able to take some of their labor lawyers with them. They were anxious to employ someone with experience, and the offer was made attractive to me.

The practice at Western Electric Co. was somewhat different, in that the Western Electric Co. tended to send to outside counsel a good many of the kinds of cases we would have handled ourselves at Westinghouse. The practice there was overwhelmingly in arbitration cases. I handled a number of arbitration cases, primarily involving the Communication Workers and the IBEW.

I worked on a major project internally during that year, having to do with the fact that the company was undergoing a rather sizable reduction in its force and some of the provisions of the labor agreement were rather obscure. They were provisions that had been put in many years ago, and as contract provisions so often unfortunately are, they weren't drafted very clearly and the people who had drafted them weren't around to tell us or the union exactly what they had in mind, so we were trying to undergo this massive shift of personnel and do it in compliance with our labor agreement.

In 1976 I received what I feel was one of the most fortunate opportunities I have ever had, and that was the opportunity to become chief labor counsel of a major corporation and run my own shop. The offer came from the Wheeling-Pittsburgh Steel Corp., which was attractive to me in two or three ways. One, it was back in Pittsburgh, a place where I enjoyed working. Two, there is a mystique to the steel industry and I was glad to have the opportunity to work in that very basic and important industry. The third aspect was, the steel industry then as now was in a very critical economic condition. The Wheeling-Pittsburgh Steel Corp., in particular, was having serious financial difficulties. I was coming in with a new group of people in the labor relations area of management to do what we could do to help get that company on its feet.

One thing the company clearly had in mind was to handle its labor legal affairs along the lines of the developing trend and the practice we had had at Westinghouse, namely, to try to do as much of our own legal work as possible. I was given the opportunity to organize the labor law aspect of the firm's business. This took in an even greater range of cases than I had previously been involved with. For example, we decided that it would be more economical for us to handle our own workmen's compensation cases in the Commonwealth of Pennsylvania. This was a new area to take on.

I did what most managers do—made a quick survey of where we stood, what the history had been and what the problems might be. One immediate problem that forced itself on me was the huge backlog of grievances and the disrupted condition of the arbitration process. I also had to find out what capabilities the lawyers on hand had, and to start to work to develop them to do the task we had before us.

Therefore, I was able to spend five very successful and gratifying, often difficult and anxious years with Wheeling-Pittsburgh before I was asked to join the administration.

Senator NICKLES. You mentioned that you worked with, I believe, Westinghouse and Western Electric and Wheeling. Has your past practice always been on the side of management in the field of labor relations?

Mr. DOTSON. No, it hasn't. A lot of people have the misperception that the National Labor Relations Board is the union because, by the nature of the statute, the Board is often representing what is perceived to be the interests of organized labor, and in a certain sense that may be true. However, of course, during the 5 years at the Board I was representing the public.

During the time I worked at the Board, I was a member of our union within the agency. We have a union in the Labor Board that represents the clerical employees, the investigators, and the lawyers. I was vice president and president of our local union.

During law school—I was 26 when I started law school—I had summer employment as a full-time bus driver for Greyhound, and I was a member of the Amalgamated Transit Union during that time. I was in a right-to-work State. I didn't have to be a member of the union but I was a member of the union. Of course, during the past 2 years I have again been representing the wage earner.

Senator NICKLES. Therefore, you were a member of the union when you were working for the NLRB.

Mr. DOTSON. Yes.

Senator NICKLES. Did you ever go on strike against the NLRB?

Mr. DOTSON. Sir?

Senator NICKLES. Did you ever go on strike against the NLRB?

Mr. DOTSON. No, we didn't go on strike. That is against the rules.

Senator NICKLES. Now what would you consider possibly your major achievements in labor relations over your labor career?

Mr. DOTSON. Briefly, at the Board I felt it an achievement to have been rated a highly productive employee, as the Board measures those things. The main reason I was able to be a highly productive employee was that in a large number of the cases I was given to try, I was able to get the parties together and arrive at settlements that were satisfactory to them and satisfactory to the Board.

The reason I say that is a major achievement is because I think it is important for us to do all that we can do to eliminate acrimony and confrontation in the labor management field. I think we have gone too far in that direction; I think we are hurting badly from it.

I had the opportunity last summer to go to Japan at the invitatation of the auto workers 'union and the American Motors Corp., with a group of plant-level people, to look at that very problem. When I see the way in which the Japanese are able to resolve their differences in the framework, at least in a very similar legal framework as ours, I can see one of the reasons that we are having trouble competing with them.

I think the spirit and the intention of our national labor policy is to seek accommodation and to seek peaceful means of settling differences, and I think we haven't concentrated enough on that aspect of things.

More recently, as I have said before, my experience with Wheeling-Pittsburgh was one of the most satisfying although it was trying and anxious because we spent many dark days wondering if we were going to make it. I had come to the conclusion in the labor practice I had been in, that one of the problems that management has and I think one of the problems that labor has, as an institution and as an employer, is this tremendous complexity that has developed in all of our labor laws over the past few years.

Therefore, you have managers and you have supervisors who have a pretty good idea of what they want to do or what they need to do but in many occasions now, because of the complexity and because of their own lack of understanding and because of their biases and prejudices, they find themselves violating the law, which is an expensive proposition and its a troublesome proposition. Therefore, we decided almost immediately to organize a massive effort to inform our management, right down to the front-line supervisor level, to the extent we could, of the present state of the law, of their obligations, of their responsibilities, and of the company's positicn, that our goal was to have compliance with the law, and also to make the supervisors aware of the assistance that was available to them in seeking that compliance in carrying out the company's position.

Another activity that I am especially pleased with was the successful effort the company and the union made in cleaning up our

backlog of pending grievances and getting our arbitration process working properly. It was—without getting into too much detail—it was in a state of chaos. The company and the union and the employees had lost confidence in the system we had. They had just had a bitter experience of dismissing a permanent arbitrator and getting into some litigation about it.

During the 1977 negotiations here in Washington, the union and I sat down and worked out a docket system. We worked out a panel of arbitrators. We worked out a system of selecting arbitrators. As a result of that, we were able to settle a large number of pending grievances. We were able to establish an orderly docket system, and we were able to restore the confidence of the employees in the arbitration process and in the ability of the union and the company to properly carry out their roles in that process.

I would also point to the success we had in achieving our goal of compliance with all the laws. During the 5 years I was at Wheeling-Pittsburgh, we consistently ranked among the top two or three major steel companies in our safety record, awfully important to us. During those 5 years, we were not found guilty in any case of race, age, or sex discrimination. I think that was a lot of the payoff from our efforts to inform our management of our intention to comply with those laws.

Since coming to the Department of Labor, I am proud of the fact that despite the budget cuts that everyone had to take across the board, by all measurable standards we have improved our performance in the enforcement of the several statutes covered by the labor-management area, by the Labor Management Services Administration. We have a better record of securing reemployment and back pay for veterans. We have improved our performance in indictments in the Landrum-Griffin area. We are still at work on ERISA. ERISA, as you know, is much more complex, much more troublesome in many ways. We have made some progress to reduce the paperwork burden without affecting our effectiveness. We are still at work on arriving at the right organizational structure. We fully intend to deal more effectively with the criminal elements that are at work in the area of pensions.

I am pleased to be involved with that and I am inspired by it. ERISA is a very worthy statute. It has a very worthy purpose. I think of it as an effort to give wage earners, working people, the benefit of the fiduciary or the trust concept that many people who are better situated to have that have had. Working people, unfortunately, are not always in a position to protect themselves as well as those who are better off. That statute is there to see that they have a secure retirement, to see that their pension funds are not misused.

The record has not been good. As we know, the record of the Department in recovering or protecting plan assets has not been good. The criminal elements that have been at work, literally making a business of stealing from pension funds, has become a scandal of major proportions and it is something that we are hard at work on.

Senator NICKLES. Could I ask you a question? I know that our committee has worked a good deal with you and your staff on ERISA, strictly in relation to simplification and trying to make

some changes—how close are we at being able to come up with something to Congress, at least, from your side?

Mr. DOTSON. I think we are close. As you know, we have already taken steps to eliminate some of the reporting requirements for smaller plans. We have tried to focus on exemptions that will be broad enough that we will be able to protect the basic principles but preclude the necessity for fiduciaries to come so often on a case-by-case basis to seek an exemption.

Part of the trap there, as you have probably heard before from Mr. Clayton, is that we have to regulate in order to deregulate. We have to get out broad exemptions that will be sound but the process, hopefully, will eliminate the need for the proliferation of exemptions.

Senator NICKLES. Will that effort be continuing, despite the fact that you hopefully will be moving to the NLRB?

Mr. DOTSON. Well, you know, that is always a tenuous situation, to start trying to tell people who ought to be your replacement, but I can assure you that the Secretary is aware of the problems. He is on record about these problems and I know that it is a high priority with him.

He has asked me to survey where we stand on these things, and he has certainly received my opinion about the importance of carrying on with this work, so at least I feel safe in speaking for Secretary Donovan. I can certainly speak for myself and my staff: The answer is yes, we are going to do everything we can to continue with that.

Senator NICKLES. Well, I can assure you that I will visit with your successor to hopefully see this is carried out.

You are charged with administration of Landrum Griffin. What has been done as far as compliance? What kind of movement has been made as far as living within that statute?

Mr. DOTSON. Landrum-Griffin faced a difficult situation. Part of the responsibility in the Landrum-Griffin area is the supervision of rerun elections. Now that is something that we don't have a whole lot of control over. Supervision of rerun union elections is ordered by the courts as a result of litigation. That litigation may not even be a case that is brought by the Department of Labor. That could be brought by an individual union member or employee but when the court orders that supervision, it falls on us to do it.

There has been an increase in the interest of employees in the affairs of their unions. There has been an increase in what I think is unfortunately called dissident groups. It seems to me that to call a group that disagrees with the leadership automatically a dissident group, slaps some kind of unfair label on them. Many of these groups are legitimately concerned about one thing or another.

The point, of course, is we have had an increase of activity in that area which has diverted our personnel from their normal or usual investigative and auditing activities into the supervision of rerun elections. There are a few statistics that may be revealing. During the history of this law, which has been on the books since 1959, there are many unions subject to the law that had never been audited. The audit is the main tool in the responsibility we have for seeking compliance. The frequency of audit of entities subject to audit had reached an average of about once in 30 years, which is

not a very convincing presence for the Department of Labor to have with respect to its main tool for enforcement.

That problem had been recognized in the previous administration because a project was already underway to improve the auditing system. The auditing system previously in use was rather extensive. It apparently went into a lot of things that weren't particularly relevant to the statute or the Department's enforcement responsibility, so an effort was already underway to have a better type of targeting and a more efficient type of auditing.

We allowed that effort to continue, and it was going into trial stages. The early trials of it indicated that it was an improved system. It did take less time, less of a burden to the unions being audited, more productive in terms of finding discrepancies, so we allowed that to go ahead.

Senator NICKLES. That wouldn't be characterized by anyone—or would it be—as harassment?

Mr. DOTSON. I don't see how it could be. It's something that carried over. That aspect, what I just described, was carried over from the last administration.

Senator NICKLES. Was that statutory? Did you have a statutory obligation to fulfill Landrum-Griffin in those audits?

Mr. DOTSON. The audit is the only reasonable way that you can seek compliance with Landrum-Griffin, an analysis of the reports that are filed and then an auditing of the books. This is something that is carried out by career personnel.

Senator NICKLES. OK.

Mr. DOTSON. The other thing I became aware of was that international labor organizations, for some reason, had not been audited in some 7 years. An international, as far as the law is concerned, is no different from a local or any other labor organization entity subject to the law or subject to the audit. It didn't seem right that the largest, or the groups that would tend to be the largest of those subject to audit, had apparently been put off limits.

There was concern within the program about that. There was concern expressed by the career people about it and it was an easy decision to make, to put that operation back on line. Therefore, they did begin to audit international unions again.

Senator NICKLES. OK.

Mr. DOTSON. I am especially aware of the sensitivity in that area, and in the first meeting we had with our program managers, I made it clear the importance of going about these things in a way that would be perceived as fair. In this business it is not enough just to be fair. You have an obligation to look fair and to have a perception of fairness.

Senator NICKLES. A good point.

Mr. DOTSON. Therefore, that was the emphasis.

Another practice that I was made aware of was, in the past, getting what you might call a political clearance about making an audit. That is absolutely intolerable to me. I said, "I want you to develop a sound auditing program, a sound targeting technique, and I want you to go where it leads you. Don't come to any political appointee and say, 'Is it all right to audit this one or that one?'"

Senator NICKLES. Mr. Dotson, how would you characterize the correct posture of the Board vis-a-vis the labor and management under the National Labor Relations Act?

Mr. DOTSON. I think part of it is what I just described, not only fairness but the appearance of fairness. It is awfully important for people to have confidence in their institutions, as you know so well, whether it is the Senate or this committee or law enforcement agencies, the courts, whatever. I think it is not enough just to know that you are up there going about things the right way, following the proper jurisprudence, following the established traditions. It is also important to be perceived as being fair, so I would say in the case of the Board—being judicial in nature—judicious.

There is one difference, as we know. The Board is given special deference because of presumed expertise in labor matters. To me that means a knowledge of the ways of the industrial world, and I think it is very important for people dealing with the Board, coming before the Board, to have a feeling that they are talking to people who understand their problems.

Senator NICKLES. Mr. Dotson, I appreciate your appearing before our committee.

Senator Humphrey, do you have questions? We appreciate your attendance this morning.

I wanted to explain also that Senator Hatch was unavoidably out. As you possibly know, he is recuperating from minor surgery in the hospital, which required that he not be in. Senator Hatch's statement will be included, without objection, before my questions of Mr. Dotson and his opening remarks.

Also, we will leave the record open for other Senators that may wish to have a statement or have questions, and we would appreciate your prompt response to those.

We have been informed by others that it may be the minority would like to have this held over to next year. It is my hope that it wouldn't be. It is my hope that something could be worked out which could move your confirmation through during the next 2 weeks. That remains to be seen but that is our hope, and we will work toward that.

Did you have any additional comments that you wish to make on the record? If not, and there is no other committee member who wishes to make remarks, we will adjourn the meeting now.

Mr. Dotson, we appreciate your appearing before our committee. We will keep the record open for additional comments throughout this day.

Thank you very much. The committee is adjourned.

[Whereupon, at 10:10 a.m., the committee recessed, to reconvene at the call of the Chair.]

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